IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

CRP.No. 77 of 2007()

AGAINST THE ORDER DATED 16/01/2007 IN IA 811/2006 IN OPELE.8/2005 of MUNI-MAGI.COURT,PATTAMBI

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REVN. PETITIONER: PETITIONER:

YAMUNADEVI, D/O.ERUMAKKATTIL
SANKARAN NAIR, VALLAPUZHA AMSOM,
OTTAPALAM TALUK.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

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1. DEEPA, W/O.KALLINGAL SUBRAMANIAN,
VALLPUZHA AMSOM, OTTAPALAM TALUK.

2. SARABEEVI, W/O.LATE MOOSAKUNHU,
BUSHARA HOUSE, VALLAPUZHA AMSOM,
OTTAPALAM TALUK.

BY ADV. SRI.K.RAMAKUMAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON IA 218/07 IN CRP 77/07

DISMISSED.

14/9/2007 SD/- M.N.KRISHNAN,JUDGE.

M.N.Krishnan, J.

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C.R.P.No.77 of 2007

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Dated this the 14th day of September, 2007.

ORDER

This revision petition is preferred against the order of the Munsiff, Pattambi in I.A.No.811 of 2006 in Election O.P.No.8 of 2005 whereby he held that the Election Petition cannot be dismissed at the preliminary stage as not maintainable for the ground mentioned in the order. The learned Munsiff had followed the dictum laid down by this Court in **Santhosh George** v. **Mathai** - 2006(4) K.L.T. 584 where it was held that if the defect pointed out is so patent and can be decided without any enquiry the court shall consider the same as a preliminary issue. Otherwise the Election Tribunal shall consider all issues together within the time limit fixed under the statute.

2. First objection raised is regarding the non-supply of material particulars about one Subara, who is alleged to have exercised her franchise in two Wards, that is, Ward Nos. 6 and 10. The court found that the material particulars necessary are

supplied and other matters, which are attempted to be projected can only be considered at the stage of evidence. Then it is contended that one Ravi, who is the voter mentioned in Serial No.310 of the voters list is not at all there and therefore he has not voted. Learned counsel for the petitioner has submitted that it may not be a strong ground at the stage of trial. It is regarding the difference of margin and difference of vote that has been pleaded. But the court below found that there are sufficient pleadings necessary to constitute a trial of the Election Petition and the material pointed out are all matters, which can be decided only after the parties adduce evidence and therefore the court held that there are no grounds to dismiss the Election Petition at the threshold stage as not maintainable. I concur with the order and find no ground to interfere with the matter.

Civil Revision Petition is dismissed.

M.N.Krishnan,
Judge.

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